



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 22, 2011

Mr. Mark G. Daniel
Evans, Daniel, Moore, Evans & Lazarus
115 West Second Street, Suite 202
Fort Worth, Texas 76102

OR2011-03896

Dear Mr. Daniel:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 413638.

The City of Watauga (the "city"), which you represent, received a request for the "video of patrol/briefing room on December 30, 2010 between the hours of 0130 and 0330 hrs." You claim the requested information is excepted from disclosure under sections 552.108 and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(b) of the Government Code excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if (1) release of the internal record or notation would interfere with law enforcement or prosecution[.]" Gov't Code § 552.108(b)(1). This section is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.). This office has concluded that this provision protects certain kinds of information, the disclosure of which might compromise the security or operations of a law enforcement agency. See, e.g., Open Records Decision Nos. 531 (1989) (detailed guidelines regarding police department's use of force policy), 508 (1988) (information relating to future transfers of prisoners), 413 (1984) (sketch showing security measures for forthcoming execution). To

claim this aspect of section 552.108 protection, however, a governmental body must meet its burden of explaining how and why release of the requested information would interfere with law enforcement and crime prevention. Open Records Decision No. 562 at 10 (1990). Further, commonly known policies and techniques may not be withheld under section 552.108. *See, e.g.*, Open Records Decision Nos. 531 at 2-3 (Penal Code provisions, common-law rules, and constitutional limitations on use of force are not protected under section 552.108), 252 at 3 (1980) (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known with law enforcement and crime prevention). To prevail on its claim that section 552.108(b)(1) excepts information from disclosure, a law-enforcement agency must do more than merely make a conclusory assertion that releasing the information would interfere with law enforcement. The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

The submitted information consists of video recordings of the briefing patrol room of the city's police department that shows the layout of the room and records the activities of any officers present. You state the video allows department supervisory staff "to ensure that its police officers are performing their duties, verify the activities of officers both on and off duty, and to allow investigation of any matters affecting the security of the briefing patrol room." You also state, "[p]ersons seeking to commit criminal acts would be able to learn through public information requests the number of officers on duty, the routines of the officers, and ultimately the most favorable time to commit a crime undetected." You argue release of the video recordings of the patrol room "would reveal the security measures the [p]olice [d]epartment has in place as well as the operations of the department and an internal non-public area of the department during a specific time period." You also assert "[i]n general, if videos of any police department's internal facilities were to be made public, a police department's efforts to deter crime could be hampered, because those who may violate the law could have the opportunity to observe the daily activities of the police department." Upon review, we conclude the city has demonstrated release of the requested information would interfere with law enforcement. Accordingly, the city may withhold the submitted information under section 552.108(b)(1) of the Government Code.¹

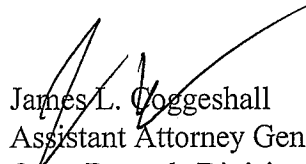
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php.

¹As our ruling is dispositive, we do not address your other argument to withhold this information.

or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tf

Ref: ID# 413638

Enc. Submitted documents

c: Requestor
(w/o enclosures)